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INDUSTRY AND THE URUGUAY ROUND

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VOLUME 1

Results of the Negotiations

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INDUSTRY AND THE URUGUAY ROUND

VOLUME 1

Results of the Negotiations



This booklet is the first in a series of publications pertaining to *Industry and the Uruguay Round*. These booklets as well as many other Industry Canada documents are available electronically on the Internet computer network at council@istc.ca.

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RESULTS OF THE NEGOTIATIONS

Introduction

Overview

Trade ministers of 125 countries met on April 15, 1994, in Marrakesh, Morocco, to conclude seven years of multilateral trade negotiations under the General Agreement on Tariffs and Trade (GATT), known as the Uruguay Round negotiations. They signed an international agreement formally known as the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations.

The agreement establishes the World Trade Organization (WTO), a comprehensive new institutional framework for the conduct of trade relations among its members. The agreement substantially strengthens and expands the scope of the rules governing world trade and investment flows. The agreement also provides significant market liberalization measures for trade in goods and, for the first time, addresses multilateral disciplines in the areas of services, investment and intellectual property.

Since the signing in Marrakesh, major member countries of GATT have ratified the agreement in their national legislative bodies. The Canadian Parliament passed the legislation proclaiming Canada's adherence to the WTO in December 1994. Implementation of the WTO, including the first step in agreed tariff cuts, took place January 1, 1995.

The Marrakesh agreement incorporates 25 separate agreements and understandings, as well as a number of ministerial decisions and declarations, all under the umbrella of the WTO. Some of the participating countries agreed to four plurilateral agreements among themselves on several issues, in addition to the terms covered in the main WTO agreement.

The WTO will create a fairer and more transparent trading system that will encourage economic growth and, as a result, will inspire commercial and consumer confidence. The WTO, headed by a ministerial conference as its ongoing political authority, is designed to improve the monitoring and administration of trade. Some elements of the WTO strengthen the trade review mechanism, while others specify the operations for dispute settlement mechanisms.

The Uruguay Round has culminated in the most far-reaching multilateral trade agreement ever undertaken. Its market liberalization measures provide significantly enhanced market opportunities in Canada's traditional export markets, as well as in the dynamic Asia Pacific region, Latin America and other potential high-growth markets.

The Canadian Department of Finance estimates annual benefits of the Uruguay Round to Canada at more than \$3 billion, which amounts to 0.4 percent of Canada's gross domestic product or output. Dynamic effects from the improved climate for trade, gains in growth of our trading partners, and the impact of the new trade rules may boost these benefits even higher. The Organisation for Economic Co-operation and Development (OECD) estimated



in 1993 that after the WTO and most of the new trade measures are in effect, the long-term annual net impact could increase world output by \$365 billion (in 1992 Canadian dollars). Canada's share was estimated to be about \$9 billion, or 1.2 percent of its gross domestic product. A more recent (November 1994) GATT study estimated the annual gain in world output by the year 2005 as a result of freer trade in goods alone will be in the order of US\$510 billion. Both the OECD and GATT studies excluded estimates of the benefits from the services aspects of the agreement and gains from rationalization.

As a trading nation, Canada has a stake in establishing and maintaining a stable and open global trading environment. Canada currently earns 29.3 percent of its gross domestic product from the sale of goods and services in foreign markets.

This booklet is designed to help Canadian industries understand the elements of this trade agreement and to capitalize on the opportunities it offers.

Background

In September 1986 in Punta del Este, Uruguay, 95 participating governments launched the Uruguay Round, the eighth GATT set, or "round," of multilateral trade negotiations.

Canada's continuing participation as one of 23 founding members of GATT in 1947 testifies to its support of GATT's objectives of fostering economic growth through trade liberalization and developing fair rules to govern world trade.

By the mid-1980s, the effectiveness of GATT was being undermined. Non-tariff barriers were increasingly hampering trade while a worldwide recession, stagflation and rising unemployment tempted many governments to undertake protectionist measures that fell outside their GATT commitments.

For example, so-called grey-area measures allowed major importers to exert pressure on exporters to "voluntarily" limit exports or to agree bilaterally to "orderly marketing arrangements." The World Bank has estimated that by 1986 hard-core non-tariff measures had spread to 18 percent of world trade, especially in automobiles, semiconductors, steel, machine tools and footwear, among other sectors. They limited trade and were antithetical to GATT's purpose. In addition, many developing countries were chafing under the restrictions of the Multi-Fibre Arrangement, which limited their exports of textiles and clothing to industrialized countries.

Trade liberalization also appeared to be undermined by the emergence of various regional trading blocs. Although the blocs were facilitating trade among their member countries, the potential existed that they may discourage trade between blocs.

It was recognized that trade barriers were fuelling inflation and fears that trade disputes could erupt into global trade war. GATT's cumbersome and largely ineffective dispute settlement mechanisms and its inadequate administrative structure were allowing these disputes to fester.

Objectives of the Uruguay Round

Although modern telecommunications, low-cost air travel and the removal of legal barriers were facilitating trade in services and liberalizing the flow of capital, these activities were not covered in GATT. The omission of services and investment from GATT allowed member countries to protect their service industries and block foreign investment. Such protectionism often impeded the importation of services from those countries that could most efficiently supply them.

Lastly, failure by many countries to recognize ownership of intellectual property undercut incentives to transfer technologies and ultimately to invest in research and development (R&D). Inadequate protection of intellectual property also discouraged those controlling it from exporting vulnerable products or services. These pressures threatened to curtail growth in large parts of the world by denying them the advantages of technological advances.

The September 1986 Punta del Este Ministerial Declaration, under the overarching goals of further strengthening and broadening the GATT system as well as liberalizing and expanding world trade, specified the following objectives for the Uruguay Round trade negotiations:

- increasing the responsiveness of GATT to the evolving international commercial environment
- encouraging cooperation in strengthening the interrelationships between trade and other economic policies affecting economic growth
- reducing or eliminating the use of non-tariff barriers
- encouraging greater participation in GATT by developing countries, especially the more advanced ones, leading eventually to their full participation
- expanding the coverage of GATT to incorporate services, intellectual property and trade in agricultural products
- developing an integrated, more viable and durable multilateral trading system.

As well, the effects of economic globalization were becoming increasingly clear, particularly the complementarity of trade and foreign direct investment and the growing need for firms to develop strategic relationships internationally.

Over the seven-year negotiating period, the world economy experienced accelerating structural changes. As a result, international objectives for trade negotiations underwent a major change. Issues such as economic growth with fuller employment, the fostering of sustainable development and other socially related issues moved up the agenda. It proved impossible at the end of the Uruguay Round negotiations to address these issues; they have been proposed as potential items for WTO scrutiny.



Canada's Goals

In addition to the international objectives, Canada had some unique goals of its own. In general, Canada sought to improve the international setting for its industries. Thus, throughout the negotiations, Canada sought measures that would:

- generate Canadian trade, investment and employment opportunities by providing better access to world markets, through full and effective reciprocity, for Canadian agriculture, resource products, manufacturing and services
- facilitate the gradual and orderly adjustment of domestic industry to global competition.

GATT and NAFTA

GATT represents a world trading system that is complementary to the North American Free Trade Agreement (NAFTA) embracing Canada, the United States and Mexico. NAFTA advances the key GATT goal of encouraging the free flow of goods and services under a system of internationally agreed-upon rules. In fact, GATT specifically allows for the development of regional trading arrangements, as long as they are consistent with its own principles. Although the Uruguay Round mirrors many of the key provisions of NAFTA, it also addresses some unfinished business of NAFTA, including rules on agricultural trade, definition of a subsidy and rules governing the use of dumping and countervailing duties.

In a dispute with the United States or Mexico over NAFTA obligations, Canada would have access to NAFTA dispute settlement mechanisms. Disputes involving GATT rules would be resolved under GATT. If an action by the United States were deemed to violate both NAFTA and GATT, Canada could pursue the matter through either forum.

A New Framework for World Trade

The Uruguay Round agreement is the alternative to threats by nations to unilaterally flex their economic muscle. The new WTO strengthens and improves the existing rules and dispute resolution procedures that govern Canada's trading relationships with other countries. It also expands the sector and geographic coverage of these rules to create a more secure but nonetheless competitive trading environment.

The successful conclusion of the Uruguay Round has been one of Canada's top trade priorities. The new agreement will give Canadian companies more opportunities to invest, to create jobs and to develop new technologies, products and services. Most importantly, it will help open markets around the world for competitive Canadian producers of goods and services.

Achievements of the Uruguay Round

This overview of the achievements highlights the new context in which international trade will take place. It does not focus on sector-specific considerations, which are covered in separate publications in this series (see the page behind the title page for information on obtaining copies).

Market Access

Traditionally, the single, most important outcome of a trade agreement has been the reduction of tariffs. While tariffs have been reduced in industrialized countries with each successive round of GATT negotiations, they have nevertheless continued to act as an effective barrier to entry for many exporters and as a significant cost of doing business for importers.

The market access element of the Uruguay Round negotiations evolved into one of the most contentious areas of the negotiations; however, they did result in unprecedented tariff reductions.

The less developed countries and newly industrializing countries also made commitments during the negotiations. One aspect of market access that has caused considerable insecurity has been the lack of tariff bindings. If a country binds its tariffs, it agrees not to increase a tariff without negotiation. In the past, most developing countries had few, if any, bindings and were therefore able to raise tariff rates as they wished. A useful gain of the Uruguay Round is that most of these countries have now bound a substantial portion of their tariffs, thereby providing greater security of access. Some of these countries have also greatly reduced these tariffs.

- Industrial countries have agreed to make a 40 percent overall reduction in tariffs on industrial products, with the average tariff falling from 6.3 percent to 3.8 percent.
- The proportion of goods imported duty-free will rise from 20 percent to 44 percent.
- Developed countries are binding almost all of their tariff lines, up from 78 percent before the Uruguay Round negotiations.
- Developing countries have agreed to bind 73 percent of their tariff lines, up from 21 percent, while economies in transition (mainly formerly socialist countries) will increase their bindings from 73 percent to 98 percent of all tariff lines.

The increase in real market access to most countries and the security of that access can be seen as a watershed in trade negotiations.

The so-called Quad countries — Canada, European Union, Japan and the United States — agreed upon a number of sectors in which tariffs will be eliminated and others where major cuts will take place. These countries will eliminate tariffs on agricultural equipment, beer, brown spirits, construction equipment, medical equipment, office furniture, paper and paper products, pharmaceuticals and steel. They have also agreed to major reductions for electronic and scientific equipment and harmonization of chemical tariffs at low rates. Most other tariffs will also be substantially reduced.

Other industrialized countries and the Republic of Korea are participating fully in some of these sectoral agreements and only partially in others.

Generally, the member countries have agreed to reduce tariffs in five annual, equal steps. Some sectors have dramatically different phase-in periods, however, ranging from the immediate removal of tariffs on pharmaceuticals to a 10-year phase-out of tariffs on paper and paper products and on steel.



Trade Rules

Non-tariff barriers have also been significantly reduced. A good example is the elimination of the use of Voluntary Restraint Agreements, which have proliferated in the automobile sector. Changes to the GATT Safeguard Agreement now prohibit the use of such GATT-inconsistent restrictive measures. Still other reductions of non-tariff barriers result from the removal of tariffs. The phasing-out of the tariff on newsprint, for example, will abate and eventually will remove the effect of the European Union's quota on this product.

The new system obliges signatories to adhere more closely to the WTO agreement. This will reduce the incidence of interruptions to legitimate trade, improve export opportunities and, as a result, instil greater confidence in the global trading system.

The **Agreement on Subsidies and Countervailing Measures** establishes a clear set of rules on subsidies and countervail. A countervailing duty is a tariff imposed on an imported subsidized product, designed to offset the value of the subsidy which provides an unfair advantage to the import. The agreement contains for the first time an internationally agreed-upon definition of a *subsidy* as a financial contribution by a government that confers a benefit.

The agreement establishes three categories of subsidies: prohibited, non-actionable (which will not be subject to countervail) and actionable (which may be subject to countervail). The agreement sets the countervailable subsidy threshold at 1 percent. This means that if an imported product is found to incorporate actionable subsidies totalling 1 percent of its value or less, the product will not be vulnerable to a countervailing duty.

Programs to assist regional development, R&D and environmental programs are exempt if they meet specified criteria. Export subsidies, other than those permitted under the Agreement on Agriculture, are prohibited.

Governments may use domestic (as opposed to export) subsidies as instruments of domestic social and economic policies. However, a trading partner has the right to take countervailing measures or appeal to a WTO panel for redress if a domestic subsidy injures its producers.

For certain subsidies that are deemed to be seriously trade-distorting, the onus now will be on the subsidizing country to prove that the subsidy does not cause serious prejudice to a trading partner. Under provisions for serious prejudice, Canadian industry for the first time will be able to effectively challenge foreign subsidies that impair Canadian exports to subsidizing countries or to third markets where subsidized exports compete unfairly.

Countervail action will be limited by "sunset" provisions that require a review within five years. The WTO also sets higher standards for the initiation of countervail action. (It should be noted that both the Canada-U.S. Free Trade Agreement and NAFTA use GATT rules on countervail.)

Government Procurement

The **Anti-dumping Code** clarifies the rules concerning the application of anti-dumping measures. Anti-dumping duties are special tariffs that may be imposed by the importing country to offset any unfair advantage obtained by exporters selling their export goods below cost or below their domestic market price. The agreement integrates the settlement of dumping cases into the general WTO dispute settlement process and establishes stricter rules for the conduct of anti-dumping investigations. It defines factors that investigators should take into account in determining injury to domestic industry, and provides for a more precise calculation of the dumping margin.

Safeguard provisions clarify the rules governing the use of a measure a country may take to protect a specific domestic industry from an unforeseen increase in imports of a product that is causing, or likely to cause, serious injury to its domestic industry. Permitted safeguard measures under GATT include the right to impose temporarily a restrictive trade measure on imports that cause, or threaten to cause, serious injury to a domestic industry. To discourage frivolous actions, however, the country imposing the safeguard measure may have to compensate its trading partners for lost trade. The agreement ensures that all countries will use comparable rules and procedures when taking safeguard actions. In the aggregate, a safeguard measure cannot exceed eight years, and must be progressively liberalized during its lifetime.

The Uruguay Round package includes a commitment to a new Agreement on Government Procurement to supersede the current Procurement Code, which has been in place since 1981. The agreement extends Code disciplines for goods and equipment to a broader range of central government departments and agencies, and for the first time will include the possibility of sub-central government procurement (provincial, state and municipal) as well as a wide spectrum of services and construction contracts.

As a plurilateral agreement under the WTO, membership, while open to all WTO signatories, is limited to those countries that have specifically negotiated the terms of their participation. Negotiations to date have included Canada, the European Union (including Austria, Finland and Sweden, who became EU members in 1995), Hong Kong, Israel, Japan, the Republic of Korea, Norway, Switzerland and the United States.

Canadian commitments under the new agreement are currently limited to federal departments and agencies as well as named federal Crown corporations. Reciprocal commitments on the part of Code member countries will more than triple the competitive access for Canadian firms to government procurement markets in these countries. This represents a market of approximately \$125 billion.

Despite the forceful representation of Canadian negotiators, procurement preferences on the part of our trading partners continue to impede access for Canadian firms in key areas such as transportation and telecommunications equipment. Canada has been unable to persuade the United States to moderate the terms of its Small and Minority Business Set-Aside Program.



Consequently, the Canadian federal government is not required to open up to Code members its procurement of high-technology communications, transportation-related construction and specified services.

The new Code introduces enhanced procedural obligations to ensure fair and equitable treatment of eligible suppliers. The agreement also establishes a bid challenge mechanism to facilitate the resolution of supplier complaints. Private bidders can challenge procurement decisions through an independent body in each Code member country. These challenge procedures are designed to provide rapid interim measures to correct breaches of the agreement and to preserve commercial opportunities. In addition, parties will have recourse to established dispute settlement provisions under the WTO.

Canadian provincial government departments, agencies and Crown corporations are not covered under the terms of the agreement at this time. In the period leading up to the anticipated implementation of the government procurement agreement in January 1996, Canada has agreed to explore the interest of the provinces in participating in an expanded agreement, subject to their voluntary commitment.

Before the agreement enters into force, participants intend to continue negotiations to expand its scope. In addition to negotiations toward coverage of purchases by sub-central and local governments, Code members are continuing to discuss the potential for coverage on the basis of reciprocity of Crown corporations, public utilities, and municipal departments and agencies.

Customs and Border Measures

The Uruguay Round package includes a number of elements designed to reduce or eliminate non-tariff border measures that impede trade.

- The agreement on **import licensing procedures** introduces procedural improvements and tightens disciplines and definitions for automatic and non-automatic licensing. The agreement places the onus on the licensing nation to give traders due notice, within 21 days wherever practicable, of changes in criteria for granting licences on a non-discriminatory basis.
- The agreement on **pre-shipment inspection** ensures non-discrimination in the conduct of such inspections of goods, and establishes an independent review procedure to resolve inspection-related disputes.
- The agreement on **rules of origin** establishes a three-year work program to work toward the harmonization of these rules and to make them objective, understandable and predictable. Rules of origin are used to determine whether or not a good can be considered to have originated in a particular country, and so be eligible, for example, for a particular tariff treatment.
- The agreement on **customs valuation** clarifies the rights of customs officers in both importing and exporting countries, thereby giving traders greater certainty that their goods will be treated without discrimination.

- The agreement on **technical barriers to trade** seeks to ensure that technical regulations, standards and related testing and certification procedures do not create unnecessary obstacles to trade. The agreement also recognizes that members should not be prevented from taking measures necessary to protect human, animal or plant life or health or the environment, or from attaining other legitimate goals.
- The agreement on **sanitary and phytosanitary measures** covers food safety and animal and plant health regulations (which fall outside the agreement on technical barriers to trade). This agreement enjoins signatory countries to adopt international standards and guidelines and to ensure that their regulations would not discriminate against nations having similar conditions.

Textiles and Clothing

Integration of the textiles and clothing sector under the WTO umbrella represents one of the most complex elements of the Uruguay Round agreement.

Since 1974, trade in the textile and apparel sectors has been governed by the Multi-Fibre Arrangement, involving product-specific bilateral quotas. A key aim of the Uruguay Round was to return these sectors to GATT under improved rules and disciplines. This integration will be phased in over a 10-year transition period in three stages, with all remaining products integrated at the end of the transition period on January 1, 2005, and will be achieved through a gradual narrowing of products subject to quotas and through periodic increases in levels of quotas over remaining products.

Further, members are protected by sectoral safeguards and full access to the Uruguay Round's mechanisms for protection against unfair trade practices. The phased integration of products should make it easier for the industry to adjust.

The agreement will provide both textile and clothing manufacturers with increased access to foreign markets and, for clothing manufacturers, to less expensive material imports, thereby contributing to lower costs.

Agriculture

The Uruguay Round agreement on agriculture introduces a new system to strengthen and clarify rules for agricultural trade. This agreement will reduce or eliminate constraints to market access and will reduce subsidization.

Before the Uruguay Round negotiations began, the major producing countries were providing massive support to their agricultural sectors. This gave them a significant advantage over medium-sized and smaller countries. Reductions in such support measures increase marketing opportunities for Canadian agricultural produce and agri-food products.

The agreement includes provisions to encourage the use of domestic support policies that are less likely to distort trade, including a gradual reduction in agricultural export subsidies. Specifically, the agreement commits countries to reduce **export subsidy expenditures** by 36 percent and to reduce the **volume of subsidized exports** by 21 percent over the



1995–2001 period. Members must also cut internal support to their agricultural industry by 20 percent in six annual, equal steps. Existing tariffs will be reduced on average by 36 percent, with a minimum reduction of 15 percent for individual tariff lines. Non-tariff barriers, such as quotas, are to be replaced by tariff equivalents, which are to be reduced by 15 percent by 2001.

Agricultural programs that do not distort trade, such as those for regional development, research or environmental protection, will not be affected.

New Trade Issues

The WTO introduces multilateral disciplines in the areas of services, trade-related intellectual property and investment.

The **General Agreement on Trade in Services** (GATS) establishes a comprehensive framework of rules and disciplines on government measures affecting trade in services. GATS is particularly important for Canada because approximately 79 percent of Canadian employment is in the services sector. In a global context, GATT estimates current world trade in services to be worth \$1.3 trillion.

The agreement applies to all trade in services (including investment, temporary movement of personnel and cross-border supply) and to all levels of government (federal, provincial and municipal). It is a major development for the world economy and a historic achievement comparable with the establishment of GATT for trade in goods in 1947.

The wide range of service activities and domestic and international regulations affecting services makes this a particularly complex area of world trade. GATS incorporates mutually agreed-upon contractual rights and obligations, which make it both a code of rules and a forum for negotiating improved trade opportunities and resolving trade differences.

Members are required to open their markets to a wide range of financial, professional, business, telecommunications, computer, transportation and tourism services. Professional and business services include, for example, engineering, legal and architectural consulting. GATS also eases entrance requirements for workers being transferred abroad.

Trade-Related Aspects of Intellectual Property Rights (TRIPs) is the most comprehensive global agreement ever reached on the protection of intellectual property. The general thrust of this agreement is to strengthen intellectual property rights and to encourage R&D. It includes a set of international standards for copyright, trade-marks, geographical indications, integrated circuit designs and trade secrets. In addition, virtually all patents will be protected for 20 years. Through the WTO dispute settlement mechanism, the agreement allows for stronger action against piracy, unauthorized use of copyright material and trade-mark infringement. Canada's media, high technology, software, electronic circuitry and pharmaceutical companies, among others, will particularly benefit from additional protection of their intellectual property.

World Trade Organization

The agreement on **Trade-Related Investment Measures** (TRIMs) prohibits countries from tying enterprises' ability to invest to requirements that distort trade. For example, once this provision comes into effect, Canadian firms investing abroad will not be required to purchase offsetting products in the host country. Such provisions facilitate industries' ability to invest and, through this presence, will provide opportunities for the increased trade that may follow. Developed countries have two years to phase out their TRIMs; developing countries have five years; and least developed countries are entitled to a seven-year phasing-out period.

The creation of an effective World Trade Organization will improve the implementation of the Uruguay Round agreement, compared with the way former trade agreements were implemented and operated under the old GATT system. Rather than being merely an agreement, the WTO is a substantive world body that will continue to work toward freer trade, not only on traditional trade issues, but also increasingly on new issues not formerly the subject of multilateral negotiations.

Although a number of non-tariff issues have been partly addressed in the recent negotiations, the globalization of the world economy and the resulting impact on national policies will require the development of more precise or new trade rules to handle these issues. For instance, the WTO will establish a number of committees that will continue the negotiations in financial, telecommunications, maritime transport and professional services, as well as movement of persons, as set out in the final agreement. Further, the WTO is expected to establish working groups for examining the desirability of developing multilateral trade rules on investment and competition policies. The objective will be to build a more stable multilateral trade system that reflects the reality of international business today to ensure international stability and economic growth.

Once the agreement is in force, the WTO will be responsible for the operation of a stronger dispute settlement system. Unlike the current system, where parties to a dispute often block the implementation of GATT panel recommendations, WTO members that are parties to a dispute must accept, without exception, all decisions of the dispute settlement process. Measures can be taken to prevent any country from blocking an unfavourable decision, and WTO members are committed to avoiding unilateral actions.

New procedures are to be instituted to make it easier to request the convening of trade dispute settlement panels. Moreover, the agreement incorporates clearer deadlines and timetables for panel decisions and implementation of rulings. This is a major improvement for Canada since it ensures that disputes are resolved on the basis of rules, not the power of parties to the dispute.



Benefits to Canada

The Uruguay Round agreement, including the processes established within the WTO framework, assists Canadians and Canadian industry by:

- boosting Canadian exports and thus **creating new jobs**
- injecting more growth into the economy
- improving the competitiveness of Canadian companies by **lowering the costs of imported components** and other inputs
- **increasing access** to competitive business services
- strengthening and expanding the rules to **cover new areas of world trade**, and forcing large countries to live by the same rules as smaller countries
- **reducing Canadian tariffs**, the taxes that make imports more expensive for all Canadians
- **reducing tariffs and other trade barriers of trading partners**, making it easier to create new markets or to expand existing markets offshore for Canadian exports — particularly important to Canada are the commitments made to improve access to markets in the rapidly growing economies of Asia Pacific and Latin America
- increasing access, worth in the order of \$125 billion annually, to **government procurement markets** of other members, at least tripling Canadian industry's access to these markets
- constraining the costly **international grain subsidy** war
- **strengthening ownership of intellectual property**, including brand names and advanced technologies
- further **opening foreign markets for our services**, especially Canada's highly advanced telecommunications, engineering, banking and insurance services
- bringing **discipline to trade-related investment** matters, thus further encouraging investment and its complementary trade flows.

